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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 JAVIER ESPINOZA RODRIGUEZ,
12 Petitioner,
13 v.
14 JOHN C. MARSHALL, Warden,
15 Respondent.

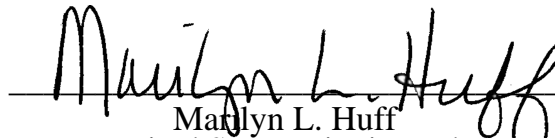
Civil No. 08cv1007-H (CAB)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

16 Petitioner, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas
17 Corpus pursuant to 28 U.S.C. § 2254, but has failed to pay the \$5.00 filing fee and has failed to
18 move to proceed in forma pauperis. Because this Court cannot proceed until Petitioner has either
19 paid the \$5.00 filing fee or qualified to proceed in forma pauperis, the Court **DISMISSES** the
20 case without prejudice. See Rule 3(a), 28 U.S.C. foll. § 2254. If Petitioner wishes to proceed
21 with this case, he must submit, **no later than August 6, 2008**, a copy of this Order with the
22 \$5.00 fee or with adequate proof of his inability to pay the fee. The Clerk of Court shall send
23 a blank Southern District of California In Forma Pauperis Application to Petitioner along with
24 a copy of this Order.

25 **IT IS SO ORDERED.**

26 DATED: June 11, 2008

27 
Marilyn L. Huff
United States District Judge

28 CC: ALL PARTIES